

Attorney Docket No. 10121/12701 (03-175US)

REMARKS

Claims 4, 5, 7, 8, 11, 13, 14, 20, 23 - 78, 80, 81, 86, 87, 89, 90 and 92 - 101 have been canceled. Claims 1, 2, 9, 15, 19, 21, 79, 82 - 85, 88 and 91 have been amended. No new matter has been added. Thus, claims 1 - 3, 6, 9, 10, 12, 15 - 19, 21, 22, 79, 82 - 85, 88 and 91 remain pending in the present application. In view of the above amendments and the following remarks, it is respectfully submitted that these claims are in condition for allowance.

Claims 1 - 4, 6, 9, 10, 12, 14 - 21 and 79 - 101 stand rejected under 35 U.S.C. § 102(b) as anticipated by U.S. Patent No. 5,690,269 to Bolanos et al. ("Bolanos"). *9-18-09 Office Action*, p. 2.

Amended claim 1 recites, in part, an end effector apparatus comprising "a deflecting mechanism at a distal end of the insertion section, the deflecting mechanism having a proximal member and a distal member pivotally coupled to one another and open to one another via a proximal end gap in the proximal end of the distal member and a distal end gap in the distal end of the proximal member, the proximal and distal members including proximal and distal side gaps, respectively, the proximal side gap extending to the distal end of the proximal member laterally of the distal end gap and the distal side gap extending to the proximal end of the distal member laterally of the proximal end gap to form a continuous opening with the proximal side gap" and "an end effector assembly coupled to the distal end of the deflecting mechanism" along with "a first actuator member extending from the handle through the insertion section to couple to the distal member so that actuation of the first actuator member pivots the distal member relative to the proximal member between a longitudinally aligned configuration and a deflected configuration" and "a second actuator member extending from the handle through the insertion section to the end effector assembly to actuate the end effector assembly, *wherein each of the first and second actuator members extends between the proximal and distal members via the distal and proximal end gaps when the proximal and distal members are in the longitudinally*

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aligned configuration and extend therebetween via the proximal and distal side gaps when the proximal and distal members are in the deflected configuration."

In contrast, it is respectfully submitted that Bolanos does not show or suggest a deflecting mechanism in which a deflection actuating rod extends through *both* a proximal and a distal side gap when the deflecting mechanism is moved into a deflected configuration. Specifically, Bolanos describes a deflecting mechanism including a first endoscopic portion 185 and a second endoscopic portion 184 that are pivotally movable relative to one another. *Bolanos*, col. 6, ll. 10 - 13. An articulating rod 96 for deflecting the first portion 185 relative to the second portion 184 extends through the deflecting mechanism and is longitudinally movable relative to the deflecting mechanism to move the deflecting mechanism between a longitudinally aligned configuration and a deflected configuration. *Id.* at col. 6, ll. 25 - 28. In particular, the articulating rod 96 is moved distally to push against first portion 185 and deflect the first portion 185 relative to the second portion 184. *Id.*; see Fig. 12.

The Examiner contends that Fig. 12 shows the articulating rod 96 extending through a side gap. *Advisory Action*, p. 1. It is respectfully submitted, however, that at most, the articulating rod 96 only extends through a proximal side gap of the second portion 184. Indeed, to facilitate deflection of the first portion 185 relative to the second portion 184, the articulating rod 96 pushes against an inner surface at the proximal end of the first portion 185 such that the first portion 185 cannot include a distal side gap laterally of a proximal end gap of the first portion 185. As shown in Fig. 12, the only side gap of the first portion 185 is radially opposed to a position of the articulating rod 96 such that the articulating rod 96 cannot possibly extend therethrough. Thus, it is respectfully submitted that the articulating rod 96 does not extend between both proximal and distal side gaps when the first and second portions 185, 184 are moved from the longitudinally aligned configuration to the deflected configuration.

Accordingly, it is respectfully submitted that Bolanos does not show or suggest "*wherein*

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each of the first and second actuator members extends between the proximal and distal members via the distal and proximal end gaps when the proximal and distal members are in the longitudinally aligned configuration and extend therebetween via the proximal and distal side gaps when the proximal and distal members are in the deflected configuration," as recited in claim 1. Thus, it is respectfully submitted that claim 1 is not anticipated by Bolanos and that the rejection of this claim should be withdrawn. Because claims 2, 3, 6, 9, 10, 12, 15 - 19, 21, 79 and 82 depend from and include all of the limitations of claim 1, it is respectfully submitted that these claims are also allowable.

Similarly, claim 83 recites, in part an end effector apparatus comprising "a deflecting mechanism at a distal end of the insertion section, the deflecting mechanism having a proximal member and a distal member pivotally coupled to one another and open to one another via a proximal end gap in the proximal end of the distal member and a distal end gap in the distal end of the proximal member, the proximal and distal members includinh proximal and distal side gaps, respectively, the proximal side gap extending to the distal end of the proximal member laterally of the distal end gap and the distal side gap extending to the proximal end of the distal member laterally of the proximal end gap to form a continuous opening with the proximal side gap" and "an end effector assembly coupled to the distal end of the deflecting mechanism" in combination with "a first actuator member extending from teh handle through the insertion section to couple to the distal member so that actuation of the first actuator member pivots the distal member relative to the proximal member between a longitudinally aligned configuration and a deflected configuration" wherein "*the first actuator member extends between the proximal and the distal members via the distal and proximal end gaps when the proximal members are in the longitudinally aligned configuration and extend therebetween via the proximal and distal side gaps when the proximal and distal members are in the deflected configuration."*"

For at least the same reasons as discussed above in regard to claim 1, it is respectfully submitted that claim 83 is not anticipated by Bolanos and that the rejection fo this claim should

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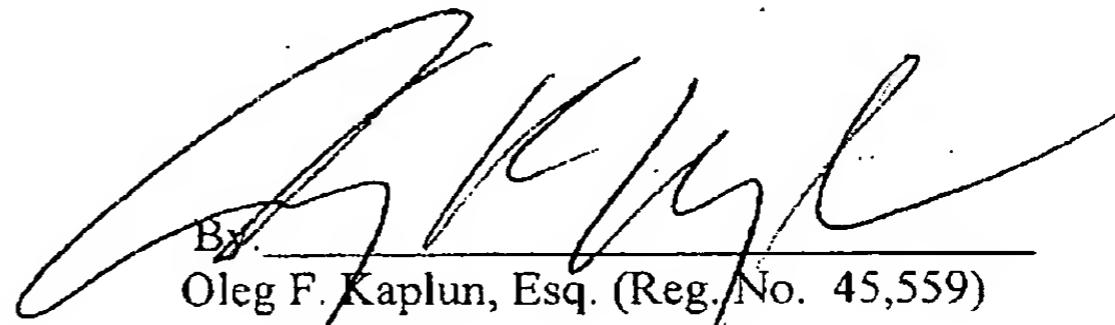
be withdrawn. Because claims 84, 85, 88 and 91 depend from and include all of the limitations of claim 83, it is respectfully submitted that these claims are also allowable.

Claim 22 stands rejected under 35 U.S.C. § 103(a) as unpatentable over Bolanos. 9/18/09
Office Action, p. 4.

As discussed above, it is respectfully submitted that claim 1 is allowable over Bolanos. Since claim 22 depends from and includes all of the limitations of Bolanos, it is respectfully submitted that this claim is also allowable and that the rejection of this claim should be withdrawn.

In light of the foregoing, Applicant respectfully submits that all of the pending claims are in condition for allowance. All issues raised by the Examiner having been addressed, an early and favorable action on the merits is earnestly solicited.

Respectfully submitted,



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Dated: December 18, 2009